

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 18-56320

RUTH A LIZEE’,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING, AS UNNECESSARY,
THE DEBTOR’S MOTION TO EXTEND THE AUTOMATIC STAY**

This case is before the Court on a motion filed by the Debtor on December 5, 2018, entitled “Debtor’s Motion to Extend Automatic Stay Pursuant to 11 U.S.C. [§] 362(c)(3)” (Docket # 5, the “Motion”). The Court concludes that a hearing on the Motion is unnecessary, and that the Court must deny the Motion because it is unnecessary. 11 U.S.C. § 362(c)(3) does not apply in this case, and thus the automatic stay will not terminate under that section.

Section 362(c)(3)(A) provides:

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period **but was dismissed**, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) —

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case[.]

11 U.S.C. § 362(c)(3)(A) (emphasis added). This provision does not apply to this case because the Debtor did not have any case pending within the one-year period before filing this case that was “dismissed.”

The Debtor had only one prior case that was pending within one year before filing this

case, which was Case No. 11-63277. The Debtor commenced that case by filing a voluntary petition for relief under Chapter 13 on August 31, 2011. That case was not dismissed. Rather, on December 13, 2017, the Court entered an order granting the debtor a discharge under 11 U.S.C. § 1328(a).

For these reasons, the Debtor's Motion is not necessary. The stay will not terminate under § 362(c)(3)(A).

Accordingly,

IT IS ORDERED that the Motion (Docket # 5), is denied as unnecessary.

Signed on December 6, 2018



/s/ **Thomas J. Tucker**

Thomas J. Tucker
United States Bankruptcy Judge